

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN ECONOMIC DEVELOPMENT FUND WITHIN THE COAL SEVERANCE TAX TRUST FUND; ALLOCATING COAL SEVERANCE TAX FUNDS TO THE ECONOMIC DEVELOPMENT FUND; ESTABLISHING AN ECONOMIC DEVELOPMENT PROGRAM WITHIN THE DEPARTMENT OF COMMERCE; PROVIDING FOR THE USE OF THE INTEREST AND INCOME FROM THE ECONOMIC DEVELOPMENT FUND TO PROVIDE FINANCIAL ASSISTANCE FOR QUALIFIED ECONOMIC DEVELOPMENT PROJECTS AND TO PROVIDE FINANCIAL ASSISTANCE TO CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS; ESTABLISHING THE PURPOSE OF THE ECONOMIC DEVELOPMENT FUND; ENUMERATING THE TYPES OF FINANCIAL ASSISTANCE AVAILABLE THROUGH THE ECONOMIC DEVELOPMENT FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-5-703, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-5-703, MCA, is amended to read:

"17-5-703. (Temporary) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; ~~and~~

(f) a coal severance tax school bond contingency loan fund; and

(g) an economic development fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

(3) (a) As long as any school district bonds secured by state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12 months.

(4) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(b) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(d) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.

(5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the

economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(b) The state treasurer shall monthly transfer from the economic development fund to the economic development special revenue account, provided for in [section 6], the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with [section 5]. Earnings not transferred to the economic development special revenue account must be retained in the economic development fund.

~~(5)(6)~~ Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. (Terminates June 30, 2016--sec. 1, Ch. 70, L. 2001.)

17-5-703. (Effective July 1, 2016) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a coal severance tax permanent fund;

(d) a coal severance tax income fund; ~~and~~

(e) a coal severance tax school bond contingency loan fund; and

(f) an economic development fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

(3) (a) As long as any school district bonds secured by state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the

balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12 months.

(4) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(b) The state treasurer shall monthly transfer from the economic development fund to the economic development special revenue account, provided for in [section 6], the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with [section 5]. Earnings not transferred to the economic development special revenue account must be retained in the economic development fund.

~~(5)(6)~~ Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

NEW SECTION. Section 2. Montana economic development program -- definitions. (1) (a) There is a Montana economic development program that consists of:

(i) the economic development fund established in 17-5-703; and

(ii) the economic development special revenue account provided for in [section 6].

(b) Interest and income from the economic development fund may be used to administer the economic

development program and to provide financial assistance for qualified economic development purposes under [sections 2 through 6]. No more than 10% of the annual deposits in the economic development special revenue account, provided for in [section 6], may be used for the administrative costs of the economic development program at the state, regional, and local level.

(2) As used in [sections 2 through 6], the following definitions apply:

(a) "Certified regional development corporation" has the meaning provided in 90-1-116.

(b) "Department" means the department of commerce provided for in 2-15-1801.

(c) "Economic development organization" means:

(i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

(B) an entity certified by the department under 90-1-116; or

(C) an entity established by a local government; or

(ii) an entity actively engaged in economic development and business assistance work in a region of the state.

(d) "Local government" means a county, consolidated government, city, town, or district or local public entity with the authority to spend or receive public funds.

NEW SECTION. Section 3. Purpose. The legislature finds and declares that economic development is a public purpose. The purpose of the Montana economic development program is to assist in economic development for Montana that will:

(1) create good-paying jobs for Montana residents;

(2) promote long-term, stable economic growth in Montana;

(3) encourage local economic development organizations;

(4) create partnerships between the state, local governments, and local economic development organizations that are interested in pursuing these same economic development goals;

(5) retain or expand existing businesses; and

(6) provide a better life for future generations through greater economic growth and prosperity in Montana.

NEW SECTION. Section 4. Types of financial assistance available. The department shall provide

1 for and make grants and loans available to local governments for economic development projects and to
2 certified regional development corporations from the money in the economic development special revenue
3 account provided for in [section 6].

4
5 **NEW SECTION. Section 5. Priorities for funding -- rulemaking.** (1) The department must receive
6 proposals for grants and loans from local governments. A local government shall work with an economic
7 development organization on a proposal. The department shall work with the local government and the
8 economic development organization in preparing cost estimates for a proposed project. In reviewing proposals,
9 the department may consult with other state agencies with expertise pertinent to the proposal.

10 (2) (a) The department shall adopt rules necessary to implement the Montana economic development
11 program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment
12 program and other similar state programs. To the extent feasible, the department shall make the rules
13 compatible with those other programs.

14 (b) The rules must provide for the types of uses of funds available under the economic development
15 program. The types of uses of funds include but are not limited to:

- 16 (i) grants to economic development organizations for feasibility studies;
- 17 (ii) projects that create jobs;
- 18 (iii) economic support for a treasure community certified under 90-1-116;
- 19 (iv) economic support for certified regional development corporations;
- 20 (v) funding for state, regional, and local development projects; and
- 21 (vi) economic development marketing efforts.

22 (c) The rules must provide for distribution methods for financial assistance available to local
23 governments. The rules must provide for distribution to projects that create jobs based upon the number of jobs
24 expected to be created or retained because of the funding. Funding may not exceed \$5,000 for each expected
25 job, and a project must create or retain at least 10 jobs. The rules must require equal matching funds for a grant
26 or loan.

27
28 **NEW SECTION. Section 6. Economic development special revenue account.** (1) There is an
29 economic development state special revenue account. The account receives earnings from the economic
30 development fund as provided in 17-5-703. The money in the account may be used only as provided in [sections

2 through 6].

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department. Of the money that is deposited in the account that is not used for administrative expenses:

(a) two-thirds must be allocated for use by the department; and

(b) one-third must be distributed to certified regional development corporations.

Section 7. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; section 6; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of

1 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
2 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
3 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
4 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion
5 of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch.
6 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003,
7 the inclusion of 2-15-151 terminates June 30, 2005.)"

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9 **NEW SECTION. Section 8. Codification instruction.** [Sections 2 through 6] are intended to be
10 codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to [sections 2
11 through 6].

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13 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2005.

14 - END -